IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1631 OF 2007

Pratap Rajaram Chavan,
Proprietor of M/s.Sheetal
Bar & Restaurant .. Petitioner.
Vs.
State of Maharashtra & Ors. .. Respondents.

Mr.P.C.Kansara for the petitioner.
Mr.K.R.Belosey AGP for the respondents.

CORAM : D.B.BHOSALE, J.
DATED : 28TH AUGUST 2007.

P.C.:

. Heard learned counsel for the parties.

2. By this writ petition under Article 226 of the Constitution of India the petitioners have impugned the order dated 29.5.2007 passed by the Asst. Commissioner of Police, rejecting the application made by the petitioner seeking permission to have performance of Orchestra in the public premises and consequential amendment of the licence. The case set up by the petitioners is that he is already holding the premises licence, which was issued on 23.12.2004, and by application dated 3rd April, 2007 they sought amendment of the said licence by substituting the word "Orchestra" in the place of "Dance on Recorded Music". Mr.Kansara, learned

counsel for the petitioner invited my attention to the averments made in the petition to that effect so also to the premises licence dated 23.12.2004 and their application dated 3.4.2007 and vehemently submitted that the respondent ought to have amended the premises licence as prayed for. He submitted, there was absolutely no valid reason on which they could have rejected the application. He took me through the impugned order and the judgments relied upon by him annexed to the petition to submit that the order impugned in the present writ petition is ex-facie illegal.

3. Though the order impugned in the present writ petition is appealable, the petitioner chose to file writ petition directly in the High Court under Article 226 of the Constitution of India. When I gave choice to the petitioner to withdraw the petition and file statutory appeal, Mr.Kansara submitted that he has instructions to press this writ petition on merits and the petitioners do not desire to file appeal since they are only seeking amendment of the premises licence dated 23.12.2004.

4. In view of the submissions urged by Mr.Kansara and the averments made in paragraph 3(k) in the writ petition I perused the premises licence

dated 23.12.2004. Admittedly, it was issued for the period of one year only. I repeatedly asked Mr.Kansara whether this licence was renewed by the concerned authority after the period of one year, neither he replied the query nor did he show the renewal order/endorsement on the licence. Mr.Belosey, learned Government Pleader invited my attention to the memorandum of renewal of the licence appended to the licence and submitted that the premises licence on expiry of the period of one year has not been renewed and, therefore, the application seeking amendment deserves to be rejected on this ground alone. I perused the licence and the memorandum of renewal appended to the licence which show that the licence had not been renewed after expiry of the period of one year from the date of its issue i.e. 23.12.2004. That being so the prayer for amendment, may be on other grounds, has rightly been rejected. In any case if the petitioner is not holding valid licence their application for its amendment cannot be entertained. On this ground alone I do not find any merit in the writ petition and it is dismissed as such.

(D.B.BHOSALE, J.)